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Amendment
Attorney Docket No. S63.2N-9776-US02

Remarks

This Amendment is in response to the Office Action dated **October 18, 2005**. In the Office Action, claims 1 and 6-8 were rejected under 35 U.S.C. § 102(e). Claims 2 and 4-6 were rejected under 35 U.S.C. § 103(a).

The Office Action Summary of this Office Action was marked as Non-final. However, in the body of the Office Action, it was marked as a Final Office Action. Applicant would appreciate a clarification on the status of this application.

For the reasons presented herein, Applicants have traversed the rejections and assert that the claims are in condition for allowance.

The following comments are presented with paragraph numbers and headings corresponding to those of the Office Action.

3. 35 U.S.C. § 102

Claims 1 and 6-8 were rejected under 35 U.S.C. § 102(e) as being anticipated by Mikus et. al. (2002/0035391). Applicants respectfully assert that Mikus does not teach or suggest all of the elements of the instant claims.

Instant independent claim 1 states “an expandable stent being disposed about at least a portion of the expandable region.” The Office Action asserts that the catheter of Mikus has a “distal portion having an expandable region (14), an expandable stent (7) being disposed about at least a portion of the expandable region.”

Expandable region (14) in Mikus is a mesh basket that is expanded by pushing the catheter outer shaft distally over the catheter inner shaft (see [0032]). However, in Mikus, the expandable stent is not “disposed about at least a portion of the expandable region” but is positioned a distance away from the mesh basket (14). Mikus states that “[t]he stent is best placed ... downstream of the bladder neck sphincter” so “the distance between the anchor and stent [is] chosen and controlled during manufacture to approximate the desired distance between the bottom of the bladder and the desired release point for the stent at a location downstream of the bladder neck sphincter” (see [0029]). Mikus further states that “[t]he proximal face of the now toroidal mesh basket [i.e. after the mesh basket has been expanded] is seated against the bladder neck sphincter and the distance between the stent and the mesh basket is larger enough to

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ensure that the stent is not within the lumen of the bladder neck sphincter, so that it can not interfere with normal operation of the bladder neck sphincter" (see [0034]). Figure 5 shows the separation of the mesh basket (14) and the stent (7) which is on the stent loading zone (22)

In addition, instant independent claim 1 states "delivering the stent to the desired location by expanding the expandable region from an unexpanded diameter to an expanded diameter." As discussed above, since Mikus does not teach "an expandable stent being disposed about at least a portion of the expandable region," the stent cannot be delivered by expanding the expandable region.

To further prosecution, instant independent claim 6 has been amended to include "a stent constructed substantially of stainless steel disposed about at least a portion of an expandable region." As discussed above, Mikus does not teach an expandable region about which a stent is disposed.

Because Mikus fails to teach or suggest all of the elements described in the instant claims, the rejection is respectfully traversed. Withdrawal of the rejection is requested.

5. 35 U.S.C. § 103

Claims 2 and 4 – 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mikus et. al. in view of Guglielmi et. al. (6,011,995) in further view of Boylan et. al. (2003/0187497). As indicated above, Mikus does not teach or suggest all of the elements of instant independent claims 1 or 6. The proposed addition of the contrasting agent of Guglielmi to Mikus does nothing to address the failure of Mikus to teach or suggest all of the elements of the instant claims. The proposed addition of the stent made of steel alloys of Boylan does nothing to address the failure of Mikus to teach or suggest all of the elements of the instant claims.

Instant claims 2, 4 and 5 are dependent from independent claim 1. It is recognized that dependent claims are non-obvious under section 103 if the independent claims from which they depend are non-obvious. *Hartness Int'l, Inc. v. Simplimatic Eng'g Co.*, 819 F. 2d 1100, 1108, 2 USPQ2d 1826, 1831 (Fed. Cir. 1987); *In re Abele*, 684 F.2d 902, 910, 241 USPQ 682, 689 (CCPA 1982); see also *In re Sernaker*, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

Withdrawal of the rejection as to claims 2 and 4-6 is respectfully requested.

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Conclusion

In light of the above comments, claims 1, 2, and 4-8 are believed to be in condition for allowance. Notification to that effect is respectfully requested.

Respectfully submitted,

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